

PLANNING COMMITTEE
TUESDAY 29 JUNE 2021

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**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 1 JUNE 2021
VIA A DIGITAL MEETING FACILITY**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert
Councillor S Kempson
Councillor K Mackie
Councillor C McGinn
Councillor J McMillan
Councillor J Williamson

Other Councillors Present:

Councillor S Akhtar

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Ms E Taylor, Manager, Planning Delivery
Ms L Ritchie, Senior Planner
Mr N Millar, Planner
Mr D Taylor, Planning Officer
Mr M Greenshields, Senior Roads Officer
Mr R Yates, Transportation Planning Officer
Ms P Gray, Communications Adviser
Ms F Currie, Committees Officer

Clerk:

Ms A Smith

Visitors Present/Addressing the Committee:

Item 3 – Ms A Jess
Item 4 – Mr K Ross, Mr R McNee
Item 5 – Mr C McKinlay

Apologies:

Councillor W Innes
Councillor K McLeod

Declarations of Interest:

None

1. PLANNING APPLICATION NO. 20/01224/P: PAPPLE STEADING – FOLLOW UP

A report was submitted in relation to Planning Application No. 20/01224/P. Neil Millar, Planner, presented the report. He reminded Members that the application had been approved at the previous Planning Committee on 30 March 2021. This follow-up report was before the Committee as a variation to condition 23 had subsequently been requested; he outlined the change. The report recommendation was to grant consent.

Mr Millar clarified, in response to questions that the applicant had to inform the Planning Authority before first use of the auditorium. He added that only then, when the auditorium was in operation, could the noise be monitored. Members queried why the applicant got 21 days to make this notification. Keith Dingwall, Service Manager for Planning, suggested, given these comments, that the wording of the second sentence in the report recommendation could be altered slightly **from** *The applicant shall confirm in writing to the Planning Authority the first use of the auditorium within 21 days of that first use* **to** *The applicant shall confirm in writing to the Planning Authority the first use of the auditorium prior to the date of that first use.*

The Convener moved to the vote on the report recommendation, with the amendment to the variation as outlined by Mr Dingwall – taken by roll call:

For: 9
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission 20/01224/P subject to the conditions previously approved by the Planning Committee at the meeting of the 30 March 2021 and subject to condition 23 being varied, as outlined above, to read:

'Planning permission for the use of the auditorium for amplified music is granted for a temporary period of one year from the date of the first use of the auditorium. The applicant shall confirm in writing to the Planning Authority the first use of the auditorium prior to the date of that first use. At the end of this temporary period, no use shall be made of the auditorium for amplified music, unless planning permission is otherwise granted.

Reason:

To enable the Planning Authority to monitor the noise impact of the auditorium, in the interests of the amenity of nearby residential properties'

2. MINUTES FOR APPROVAL – PLANNING COMMITTEE 30 March 2021

The minutes of the meeting of the Planning Committee of 30 March 2021 were approved.

Sederunt – Cllr Bruce joined the meeting

3. PLANNING APPLICATION NO. 21/00070/PM: ERECTION OF LEARNING CAMPUS AND ASSOCIATED WORKS, SITE WEST OF MASONS WAY, WALLYFORD

A report was submitted in relation to Planning Application No. 21/00070/P. Linda Ritchie, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Ms Ritchie and Robbie Yates, Transportation Planning Officer, responded to questions. Ms Ritchie clarified that 92 car park spaces would be provided, which included 3 accessible spaces; there would also be a drop off zone. Regarding a comparison with spaces provided at Musselburgh Grammar School Mr Yates indicated he did not have a direct comparison but advised that the proposed number was in accordance with the Council's Parking Standards of at least 1 space per 2 school staff. Responding to further points raised, the Convener referred to the Council's Climate Change Strategy which sought to encourage walking/cycling and discourage car use. Regarding the possibility of future bus routes, he stated that discussions were ongoing with various bus operators. On questions about a Travel Plan Ms Ritchie indicated that the Transportation Statement included a framework for a Travel Plan that set out how the applicant would take this forward. The applicant had to submit this to the Council; this would be a live document updated and adjusted as required. Mr Yates added that ongoing monitoring of the Travel Plan would be key; targets would be set, monitored and reviewed.

Regarding vehicle access and why there was not a separate service access, Ms Ritchie said this had not been considered necessary, the applicant had demonstrated that it was safe to use the main access for service vehicles. Mr Yates confirmed that the Roads Authority was content with the shared access. Ms Ritchie added that the service area was at the northern part of the site which was not an area where pupils would be accessing the site. In relation to whether there would be sufficient parking spaces for the Severe and Complex Needs Centre the Convener said he understood that these pupils were usually transported to/from the school by taxi or dropped off by other vehicles. Regarding community space, particularly sufficient provision for pupils to have their packed lunch, Ms Ritchie said this had not been an issue that had arisen during the planning application. This would however have been considered by the applicant and minimal requirements regarding dining space met.

On electric vehicle charging points and other queries, Ms Ritchie clarified that 6 spaces would be equipped for this purpose; the whole car park would be future proofed to allow for further demand. The applicant had submitted an Energy Statement which laid out all their green energy proposals. Regarding cycle rack provision she clarified that this would be included in the Travel Plan, all cycle provision required would be covered. Mr Yates indicated there would be around 200 spaces; the actual number would be confirmed to Members. On a safe walking route for pupils Ms Ritchie confirmed that this had been installed, it was in the south/west corner of the site and led directly to the primary school.

There were no questions from Members for the agent.

Councillor Mackie commented that this had taken a while to come forward but it was good to see that progress was now being made and this was welcomed by pupils and parents.

Councillor McGinn welcomed this application. He referred to the huge investment by the Council and thanked all involved over the many years it had taken to get to this point.

Councillor Forrest also welcomed the application. It had been a long time coming but was worth the wait; the learning campus would benefit current and future generations.

The Convener also acknowledged all the work carried out by officers, across many different departments of the Council. He stated that the brand new primary and secondary schools were welcomed; Wallyford would be a fantastic new community.

The Convener moved to the vote on the report recommendation (to grant consent) – taken by roll call:

For: 10

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- * Hours of construction work
- * Routes for construction traffic
- * Wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site .

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality and relative to school generated vehicle and pedestrian movements.

- 3 Prior to commencement of development full details of the proposed Sustainable Drainage System scheme including a Surface Water Management Plan for the site, which both must meet the vesting requirements of Scottish Water and be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details and Surface Water Management Plan so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that development is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 4 Prior to the commencement of the development hereby approved, gas monitoring is to be carried out both during the grouting process and after it has finished and an updated risk assessment report shall be submitted to and be approved by the Planning Authority on completion of the monitoring and prior to the commencement of the development hereby approved.

Details of the source and nature of any topsoil or subsoil to be used in the development shall be submitted to and be approved by the Planning Authority in advance of its use on the site. The details to be submitted shall contain details of any testing carried out to confirm that the imported material is free of contamination.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall immediately be brought to the attention of the Planning Authority to investigate whether further works, which may include a further Site Investigation and subsequent Risk Assessment, shall be required to be carried out to determine if any additional remedial measures are required. Any such remedial measures shall be fully implemented prior to any use being made of the building, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the site is clear of contamination.

- 5 Prior to the commencement of the development hereby approved the scheme of remedial works detailed in the Site Investigation Report docketed to this planning permission and any further remedial works/mitigation measures identified shall be undertaken in accordance with the details so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to any use being made of the learning campus.

- 6 Prior to any use being made of the learning campus hereby approved, a signed statement or declaration prepared by a suitably qualified person, whose qualifications shall be provided, confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to and approved in writing by the Planning Authority. The document shall confirm the completion of the remedial works and/or mitigation necessary to address the risks posed by past coal mining activity, as required by Condition 5 of this planning permission.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to any use being made of the learning campus hereby approved.

- 7 All planting, seeding or turfing comprised in the approved details of landscaping on the drawings titled 'Landscape Site Plan' with drawing number WHS-RF-02-ZZ-DR-L-001 rev P10, 'Tree Planting Plan' with drawing number WHS-RF-02-ZZ-DR-L-008 rev P04 and 'Soft Landscape Layout' with drawing number WHS-RF-02-ZZ-DR-L-009 rev P03 shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to improve the biodiversity value of the area.

- 8 The project Landscape Architect, or other to be approved by the planning authority, shall be employed to monitor installation of the soft landscaping works. Dated photographs shall be submitted to the planning authority within one week of undertaking each section of the works, showing the correct installation of the soft landscaping works to include subsoil preparation, topsoil preparation, tree pit preparation, storage of plants and trees on site, planting of trees with underground guys, planting of shrubs and whips, grass seeding and temporary fencing to planted and seeded areas. The applicant or their appointed agent shall contact the Amenity Services Department of East Lothian Council one month before the end of the defects liability period to arrange a site meeting to inspect and handover the soft landscape works.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to improve the biodiversity value of the area.

- 9 Prior to their installation, full details of the lighting proposed to serve the sports pitches hereby approved shall be submitted to and approved by the Planning Authority. The details to be submitted shall demonstrate compliance with the following requirement:

(i) Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

A Light Spill iso contour plot shall be provided to ensure the above requirement can be met.

The lighting shall thereafter be maintained as approved unless the Planning Authority given written consent to any variation.

Reason:

To prevent lighting from spilling onto neighbouring land, in the interests of safeguarding the amenity of neighbouring properties.

- 10 Prior to the commencement of development, a programme for monitoring the condition of the construction access route from the A199 to the construction access to the application site, prior to, during the period of construction on each anniversary of the commencement of the development, and immediately following the completion of the development hereby approved, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the adjoining road network resulting from the construction of the learning campus development is rectified.

- 11 Prior to any use being made of the learning campus hereby approved, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) A controlled crossing of the new spine road of Masons Way shall be provided in close proximity to the main pedestrian access to the site and between it and the residential developments on the east side of the spine road;

(ii) Informal crossing points shall be provided on the new spine road of Masons Way between the learning campus site and the residential developments to the east of it. These shall take the form of drop kerbs on both sides of the road with a surfaced area crossing the grass verge on the western side of the road;

(iii) Details of vehicle routing and embarking/disembarking arrangements within the site;

(iv) Details of proposed servicing and emergency access strategies.

(v) Way finding signage to be provided around the site and externally within Wallyford to show active travel routes to the site as well as for those driving (i.e. delivery vehicles).

These transportation requirements shall thereafter be carried out in accordance with the details and timetable so approved.

Reason:

In the interests of road and pedestrian safety.

- 12 Prior to any use being made of the learning campus building hereby approved, the proposed access roads, parking spaces, drop off areas and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the learning campus use and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 13 Prior to any use being made of the learning campus building hereby approved, an adoptable and lit 3 metres wide shared use path facility shall be provided between the campus grounds and the existing footpath network of Wemyss Gardens. This shall follow a route along the northern edge of the existing grassed area directly adjacent (and to the south of) the apron to the existing garages linking it to the established pedestrian network at Wemyss Gardens in accordance with details to be submitted to and approved by the Planning Authority in advance of its construction.

Reason:

In the interests of the safety and amenity of pedestrians and cyclists.

- 14 Prior to any use being made of the learning campus building hereby approved, an adoptable and lit 2 metres wide footpath link shall be provided between the campus grounds and the existing footpath network of Inchview Crescent in accordance with details to be submitted to and approved by the Planning Authority in advance of its construction. Such details shall include details of tree protection measures to be taken to protect the existing tree belt adjacent to the application site boundary, details of any trees to be removed and provision for replacement tree planting including a timetable for such replacement planting. Thereafter the tree protection measures, tree removal and replacement details shall be implemented in accordance with the details so approved unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of the safety and amenity of pedestrians and to ensure retention and maintenance of trees which are an important landscape feature of the area.

- 15 Prior to any use being made of the learning campus building hereby approved the waste storage facilities and the covered cycle storage facilities detailed on drawings docketed to this planning permission shall have been formed and made available for use. Thereafter, the storage facilities shall be retained in use as waste and cycle storage areas.

Reason:

To ensure the provision of adequate waste and cycle storage in the interest of the amenity of the users of the learning campus hereby approved and the visual amenity of the locality.

- 16 Prior to the commencement of the development hereby approved a Stage 1 Road Safety Audit shall be undertaken for the preliminary design of all roadworks, footways and cycle paths to be formed. This process shall be completed through Stages 2, 3 & 4 which are Completion of Detailed Design, Completion of Construction & Post Opening Monitoring using 12 months of validated post scheme opening road traffic collision data - all in accordance with GG119 Road Safety Audit Rev1. The Road Safety Audit to include; the proposed roads, junctions, footways, cyclepaths, pedestrian crossings and double 'D' islands where provided. The findings of the Road Safety Audit shall be submitted for the approval of the Planning Authority prior to the implementation of any outcomes arising from them.

The outcomes of the initial Quality and Safety Audits shall be implemented (including the designers response) through the detailed design stages and the full audit processes (i.e. Safety Audit and Quality Audit) completed through the design and implementation stages – including post construction/opening in accordance with a timetable to be agreed with the Planning Authority in advance of the opening of the learning campus.

Reason:

In the interests of road and pedestrian safety.

- 17 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

To enable the Planning Authority to control the positioning, appearance, form, finishes and colour of the substations and gas governors to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 18 The actions to be taken to reduce the carbon emissions from the building as detailed in the Energy Statement Summary docketed to this planning permission and the proposals for Electric Vehicle Charging provision as detailed on drawing number WHS-RYB-02-ZZ-DR-E-9511 docketed to this planning permission shall be fully implemented on site prior to any use being made of the learning campus and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 19 Noise associated with the operation of any plant and/or equipment associated with the operation of the building hereby approved shall not exceed Noise Rating Curve NR20 at any octave band frequency between the hours of 2300 and 0700 and Noise Rating Curve NR25 at any octave band frequency between the hours of 0700 and 2300 within any neighbouring residential property, assuming windows open at least 50mm.

Reason:

In the interests of protecting the amenity of neighbouring residential properties.

- 20 Prior to any use being made of the learning campus building, the Changing Places Toilet Facilities as detailed on drawings docketed to this planning permission shall be available for use and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the provision of Changing Places Toilet Facilities in the interests of inclusivity and accessibility.

- 21 Prior to the commencement of use of the learning campus hereby approved, a Travel Plan shall be submitted to and approved in writing by the Planning Authority in consultation with Road Services. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, including the identification of appropriate Safer Routes to School, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.

Reasons:

In the interest of road safety.

- 22 A schedule of materials and finishes to be used on the exterior of the learning campus building, which shall include samples of the brick and profiled metal cladding to be used on the building, and a schedule of all other materials and finishes to be used on the other components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the materials and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

4. PLANNING APPLICATION NO. 21/00069/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00903/PPM – ERECTION OF 105 HOUSES AND ASSOCIATED WORKS, LAND WEST OF 33 FA'SIDE TERRACE, MASONS WAY, WALLYFORD

A report was submitted in relation to Planning Application No. 21/00069/AMM. David Taylor, Planning Officer, presented the report, summarising the key points. The report recommendation was to grant consent.

Marshall Greenshields, Senior Roads Officer, responded to transportation related questions. Regarding plans to open up the spine road he advised that negotiations were ongoing; the Council was nearly at the stage of adopting the main spine road which should hopefully be within the next couple of months, maybe earlier. The Convener stressed the importance, given the number of units now on the site, of the need to get the spine road open as soon as possible. On the issue of communication with schools/parents regarding opening of this road Mr Greenshields confirmed that the Head Teacher would be informed of the anticipated timescale. In relation to a query about the industrial site Mr Dingwall advised that there were no firm dates as yet but he would take this off line and get back to Members.

There were no questions from Members for the applicant or agent.

Councillor McGinn welcomed and supported this application. He appreciated the comments from the Roads Officer regarding the spine road; this was key to the development.

The Convener also welcomed this application. Creating a new community aligned with the existing community was crucial and the pedestrian and cycle routes would help with this. He supported the report recommendation.

The Convener moved to the vote on the report recommendation (to grant consent) – taken by roll call:

For: 10

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed houses shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 4 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking and bicycle parking in the interests of road safety.

- 5 The development shall comply with the following transportation requirements:

(i) all roads and paths shall conform to East Lothian Council Standards for Development Roads;

ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian

ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

v) vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

vi) all path and footway connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;

vii) a Road User Safety Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority prior to construction commencing. This will be reviewed after construction is substantially complete and the developer required to make good any issues;

viii) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents;

ix) a swept path, or vehicle track assessment, of the road layout must be submitted demonstrating how the site can accommodate a large vehicle. The Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" - the vehicle being 2.5m wide with a 6.1m wheelbase and an overall vehicle length of 10m; and

x) prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

Reason

In the interests of pedestrian and road safety

- 6 Prior to the commencement of development, a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority which shall include full details of all new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting within the application site. Thereafter the scheme of landscaping shall be carried out in accordance with that approved landscaping scheme unless otherwise agreed by the Planning Authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 7 All of the approved landscaping as detailed in the landscape drawings docketed to this approval of matters and required by condition 5 above shall be implemented, maintained and managed in accordance with the management details approved by the landscaping scheme unless otherwise agreed in writing by the Planning Authority.

Reason:

In order to ensure the maintenance and management of the landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 8 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including those enclosing the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house. A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 9 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the proposed development shall be submitted to and approved by the Planning Authority prior to the commencement of development.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of the amenity of the area.

- 10 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 11 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interest of road safety.

- 12 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 13 Prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

Reason

In order to ensure the implementation and maintenance of a scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 14 In the event of the presence of any previously unsuspected or unforeseen contamination of the land on the application site being found, development shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

Thereafter any mitigation measures required shall be implemented as so approved.

Before any of the houses hereby approved are occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the occupation of the houses.

Sederunt – Cllr Bruce left the meeting

5. PLANNING APPLICATION NO. 21/00305/PM: SUBSTITUTION OF HOUSE TYPES ON PLOTS 72-119, 134-137 AND 147-150 AS CHANGES TO THE SCHEME OF DEVELOPMENT THE SUBJECT OF PLANNING PERMISSION 17/01120/PM, LETHAM MAINS, HADDINGTON, EAST LoTHIAN

A report was submitted in relation to Planning Application No. 21/00305/PM. Neil Millar, Planner presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Millar responded to questions from Members. He clarified that there were no planning grounds for refusal; the development proposal was compliant with relevant policies and there were no issues as regards house types, sizes, etc. Responding to further questions he outlined the reasons provided for the substitution of house types. He stated that the impact of these changes on neighbouring properties would be minimal.

Craig McKinlay, agent for Stewart Milne Homes Scotland, outlined the background to this proposal, explaining how the Covid-19 pandemic had made his company re-assess their product range. He drew attention to the Design Statement, commenting that the enhanced elevations would have generous glazed areas to increase natural daylight and had been designed to help shape the environment. Internal accommodation proportions would ensure that flexible work and living spaces could be offered. This would consist of internal office working space together with easily adaptive ground floor layouts that could incorporate a multi-generational household. This proposal provided more flexible layouts in keeping with the requirements of a post Covid-19 community.

Responding to questions from Councillor McMillan, Mr McKinlay drew attention to specific drawings which detailed shadowing in context of the proposal on neighbouring properties, taking Members through the modelling process.

Councillor McMillan indicated that he had felt some apprehension initially regarding the amenity concerns raised by one of the objectors. However he now felt, after listening to the presentations and after giving this matter due consideration that on balance he would be supporting the report recommendation.

The Convener remarked that the application site had been previously approved; the only difference in the proposal before Members today were changes to house types for a slightly increased ridge height. The impact on the neighbouring gardens would be minimal. There were no solid planning reasons why this application should not be supported.

The Convener moved to the vote on the report recommendation (to grant consent) – taken by roll call:

For: 9
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Notwithstanding the details of finishes submitted with the application, the houses hereby approved shall be finished externally in accordance with the co-ordinated scheme of external materials and colours for houses approved by the Planning Authority under the terms of condition 2 of planning permission 17/01120/PM.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Housing completions on the application site and on the site of planning permissions 13/00519/PM and 14/00089/PM in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 1 (2017/18) - 05 residential units
Year 2 (2018/19) - 60 residential units
Year 3 (2019/20) - 75 residential units
Year 4 (2020/21) - 74 residential units
Year 5 (2021/22) - 75 residential units
Year 6 (2022/23) - 75 residential units
Year 7 (2023/24) - 69 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 8 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 4 No more than 300 residential units shall be occupied within the allocated Letham Mains site unless and until the school approved by the grant of planning permission 14/00534/PCL has been completed and is made available for use.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 5 Prior to the commencement of development, details of the provision of new car charging points and infrastructure for them shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 7 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 29 June 2021
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **20/01431/PM**

Proposal Section 42 application to vary Condition 1of planning permission 18/01403/PM to allow the wining and working of rock at the quarry to continue to 14th October 2042

Location **Markle Mains Quarry
East Linton
East Lothian**

Applicant D Geddes (Contractors) Ltd

Per AMS Associates Limited

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

As the site area of the application site is greater than 2 hectares the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation.

Markle Mains Quarry is situated north of the A1 and A199, approximately 4 miles east of Haddington, 1.6 mile west of East Linton, and 800 metres south-west of Markle. It is bounded on all sides by agricultural land. The quarry is accessed off the Beanston Mains road, utilising a private access road. The extraction area of the quarry is to continue to be accessed through the "keyhole" cutting in the Markle Mains Heughs and using the exiting road.

The northern part of the quarry and approximately half the quarry area is defined as an area safeguarded for hard rock quarrying by Policy MIN4 of the East Lothian Local Development Plan 2018 (ELLDP). The remainder of the site is within the countryside as defined by Policy DC1 of the ELLDP.

There is an area of ancient woodland (long established of plantation origin) adjoining the

quarry site, between the main extraction area and working area to the north. Pencraig Wood is situated adjacent to the south of the application site and is also defined as ancient woodland (long established of plantation origin).

The Beanston Mains to Pencraig Wood Right of Way and Core Path 84 run west from Pencraig wood and join the access road to the quarry before it joins the Beanston Mains public road. At its nearest point the path is approximately 65 metres south of the quarry.

Traprain and Tyne Valley Special Landscape Area adjoins the southern boundary of the site, encompassing Pencraig Wood and extended south of the A199.

PLANNING HISTORY

In January 1979 planning permission (Ref:468/78) was granted for a quarry at Markle Mains and for the extraction of hard rock from it for a period up until the end of the year 2007. The quarry was worked by the Department of Highways of the former Lothian Regional Council. Operations of the quarry by the Regional Council ceased during July 1984.

On 16 October 1995 planning permission (Ref:95/00515/P) was refused for re-working of quarry for the extraction of hard rock, extension of quarry, erection of processing plant and ancillary infrastructure. The proposal was for the extraction of a greater tonnage of material from a larger area and for a longer time period than permitted by the 1979 planning permission, Ref: 468/78.

The application was refused for the following reasons:

1. The proposal would have an adverse impact on the tourist industry in East Lothian, particularly the Monksmuir Caravan site, and on the amenity of the area.
2. There is no demonstrable need for the working of the quarry.

In April 1996 D Geddes (Contractors) Ltd appealed to the Secretary of State against that refusal to grant planning permission. The appeal was subsequently withdrawn in February 1996.

D Geddes (Contractors) Ltd re-commenced operations at the quarry in 1996 under the terms of the 1979 planning permission. The Council accepted that the 1979 planning permission (Ref: 468/78) for Markle Mains Quarry was valid and that no action should be taken to prohibit operations covered by that permission and the conditions attached to it.

On 14 October 2002 planning permission (Ref: 98/00054/P) was granted for the winning and working of hard rock from the existing quarry including, an extension to the lifetime of the operation and an increase in the area and size of the site. The officer's report states that the permission was sought to extend the quarry by 6.08 hectares, resulting in an overall quarry area of 17.48 hectares, which included the proposed screening mounds. This permission was granted subject to the revocation of the previous permission 468/78 and a section 75 legal agreement between Geddes and the Council securing a restoration and performance bond of £57,000 (indexed linked to the retail price index). The bond has an expiry date of 1 June 2035 after which it must be returned if not used.

Planning permission 98/00054/P allows the winning and working of hard rock from the quarry area for a period of 26 years from the decision date, thus up to 14 October 2028. An additional one year is specified in which to complete 'restoration' of the site. The permission gave consent for the extraction of some 10.49 million tonnes of hard rock from the site at an annual rate of 400,000 tonnes.

A number of conditions are attached to planning permission 98/00054/P which limit the hours of working, control dust, noise, traffic, effects of blasting and landscape impacts.

In November 2020 planning permission ref: 16/01066/P planning permission was granted for an extension to rock quarry with extraction of stone being processed at the existing plant with associated bunding, landscaping and restoration works.

In December 2020 planning permission Ref: 18/01403/PM was granted for a further extension to the quarry. Planning permission 18/01403/PM was granted subject to the imposition of 28 planning conditions as well as the satisfactory conclusion of a Section 75 Agreement to secure the restoration of the land of the quarry once workings have ceased.

Condition 1 of planning permission 18/01403/PM states;

"This planning permission is granted for a temporary period until 14 October 2028 after which time all wining and working of rock shall cease.

No later than 14 October 2029 all stored rock, buildings, plant and machinery, and hard surfaces shall have been removed from the land and the site restored in accordance with the restoration approved by condition 2 below.

Reason:

To ensure the working of the site is restricted to that period for which planning permission has been sought and to align with extant permissions for the adjoining quarry area, in the interests of good planning control and of the amenity of the area."

PROPOSAL

Planning permission is now sought for the variation of Condition 1 of planning permission 18/01403/PM to extend the life of the quarry for 14 years beyond 14 October 2029 and therefore until 14th October 2042.

The applicant has stated in a letter that the reason for the extension in the life of the quarry is because the rate of extraction of hard rock to date has been less than anticipated or planned when planning permission 98/00054/P was granted. Therefore to allow the extraction of all the hard rock there is a requirement to extend the length of time for the quarry to operate. Consequently this application seeks to vary condition 1 of planning permission 18/01403/PM to allow for an additional 14 years to allow the winning and working of rock from it until 14th October 2042.

It is not proposed to extend the area or of land to be quarried or the depth at which rock would be won within the quarry.

Through separate application Ref: 20/01432/P planning permission is sought for the variation of Condition 1 of planning permission 16/01066/P to extend the time period for quarrying to take place until 14th October 2042 as well as remove Condition 24 of planning permission 16/01066/P for the previously approved extension to the quarry. This application is currently pending consideration.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA.

On 9th March 2021 the Council issued a formal screening opinion to the applicant. This concluded that the proposed development does not constitute 'EIA development' under the terms of the EIA regulations, subject to the provision of satisfactory landscape and visual assessments and mitigation measures, as identified and agreed through the planning application process.

The screening opinion also states that, the supporting information submitted with this application addressed the issue of the main cumulative effects associated with the quarry and its extension and also included the proposed mitigation measures to adverse effects on the environment. These mitigation measures can be enforced through planning conditions. Given the landscaping and reinstatement of the quarry were previously controlled by condition and this condition has not and would not be discharged should the current application be approved. The relevant conditions that secure the restoration of the quarry after operations have ceased shall be again be applied to new planning consent issued. On this basis, it is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Policy 4 Minerals of SESPlan and Policies, DC1 (Rural Diversification), PROP MIN4 (Safeguard Bangley and Markle Mains Hard Rock Quarries), MIN5 (Mineral Resources), MIN 8 (Mineral Extraction Criteria), MIN9 (Supporting Information), MIN10 (Restoration and aftercare), NH13 (Noise) and T2 (General Traffic Impacts) of the ELLDP are relevant to the determination of the application.

Also material to the determination of the application are:

- * Scottish Planning Policy: Revised December 2020 (SPP)
- * Planning Advice Note PAN 50: Controlling the Environmental Effects of Surface Mineral Working and Annexes A, B, C and D relating to the control of Noise, Dust, Traffic and Blasting respectively.
- * Planning Advice Note PAN64: Reclamation of Surface Mineral Workings
- * Circular 3/2012 Planning Obligations and Good Neighbour Agreements;

REPRESENTATIONS

Nineteen letters of objection have been raised to this application. Objections relate to;

- o Noise associated with the quarry;
- o Dust and air pollution;
- o Public consultation not sufficient;
- o The applicant not complying with previous obligations to place the crushing and noisy equipment within the quarry itself;
- o Visual impact on the countryside;
- o Impact on property prices;
- o Ongoing vehicular movement to and from the site and road safety issues;
- o Tree planting previously agreed has not occurred;
- o Lack of Community Engagement;
- o No background noise survey submitted as part of the application process and

- o prediction of future noise from the development;
- o No noise survey submitted;
- o proposals threaten the natural environment of East Lothian at a time when the Government has declared a climate emergency;
- o Increase in the area of land that may be worked to produce stone;
- o Meetings should be held bi-annually between the applicant and local residents to resolve any reasonable issues relating to the quarry workings that may be raised at the meetings.
- o Disturbance to the ancient woodland by noise (blasting), floodlighting, vibration, trampling and other activities from the development;
- o Impact of dust and airborne particles on the composition of plant communities through differentially stimulating or changing competitive interactions that determine relative species abundance and diversity;
- o Impact on flora and fauna to adapt to change;
- o Potential changes to hydrology may result in changes to the composition and quality of water to the woodland;
- o Potential damage to branches and trees from working close to the wood edge.
- o An independent assessment of the levels of vibration suffered by the buildings at Over Hailes needs to be undertaken. The recent extension to the quarry has caused a significant increase in both the intensity and duration of vibration events.

Neighbour notification for this application was conducted fully in accordance with statutory requirements including the notification of any neighbouring residential properties within a 20m radius of the site and the display of an advertisement of the application within the East Lothian Courier on the 21st January 2021.

The site area the subject of this application is more than 2 ha and therefore is a major development type. Section 35A (1) of The Town and Country Planning (Scotland) Act 1997 as amended requires the submission of a Proposal of Application Notice and notice of community consultation for major development types prior to the application for planning permission being made to the Council. However subsection 1A of Section 35A of the Act is clear that this requirement for public consultation does not apply to applications made under Section 45 of the Town and Country Planning (Scotland) Act 1997. As this application is one made under Section 45 of the Act then there was no statutory requirement for public consultation to be carried out.

This application is for a variation of a condition attached to an existing planning permission to extend the time period that the applicant has to work the consented quarry. The proposal would not allow for the increase in the area of land to be quarried or the levels to which the quarry shall be worked. Accordingly, the proposal would not allow for any additional rock to be quarried than the site already has permission for.

As the extraction of hard rock from the quarry has already been approved and as this application does not propose any change to the site area or the extent of the quarry then there would be no intensification of use that would generate any additional vehicular movements, vibration, blasting, noise, fumes and dust than those already permitted. On this the Council's Environmental Protection Officer has confirmed that they would have no objection to the proposal to extend the life of the quarry being satisfied that the existing conditions and controls adequately control the workings of the quarry.

As there is no proposal to extend the site area of the quarry then there would be no additional impact on the nearby flora and fauna than the impacts already assessed.

The impact of the proposal on the value of a nearby property is not a planning consideration in the determination of this planning application.

Planning permission 18/01403/PM was granted subject to 27 planning conditions imposed to control and mitigate environmental impacts including noise, dust, vibration and vehicular movements. If the quarry is being operated without complying with those conditions then this would be a matter for the Council's Planning Enforcement service to investigate. The alleged non compliance with conditions does not prevent the determination of this planning application.

The arrangement of meetings between the applicant and the local community whilst encouraged is not a matter for the Council as Planning Authority to control. It would be for the applicant, in the interests of good public relations to initiate and agree to any such meetings.

COMMUNITY COUNCIL

The Dunpender Community Council (DCC) have advised that they realise that the quarry is a major employer in the area and that for this reason the DCC have been generally supportive in the past to planning applications made by Geddes Ltd. However on this occasion they feel the need to make a formal objection on the following grounds:

Trees - DCC, after a site visit in 2018, was assured by Geddes Ltd that the originally agreed planting plans would be initiated with immediate effect. This was made a condition in the current decision notice. These trees should have been planted in the late 1990s as part of the 1996 application. They were not planted then and they remain unplanted now despite these assurances given to the DCC in 2018 for the last extension to the quarry. Therefore they object to any further extension to quarrying activity beyond 2024 until the trees are planted.

Noise, dust, and vibration levels - No recent data on noise, dust, and vibration levels has been included with the application. DCC would like to see how monitored levels have potentially changed over the years as the quarry has extended. Also, we would like projected data estimates for this application as it expects to operate up to the year 2042 which is a much longer period of operation than in the current extension. Therefore, DCC objects to this application until the required data is supplied to East Lothian Council and the wider community to assure everyone that the accepted levels in the original application have not/will not be breached. We also request that East Lothian Council assess these levels on a regular basis so that a baseline can be established from now on.

Crusher and grading machinery - The 1996 application made several references to moving this equipment into the quarry "after a period of 5-7 years" in its original management statement. This management action was accepted as part of the first planning consent and DCC would like to see this happen as this would mitigate noise and dust. This has not happened. Therefore DCC objects to this application until this equipment is moved inside the quarry as originally intended.

There has been much concern from the wider community over these extension proposals particularly from the residents of Markle and newer housing residents of East Linton. The DCC fully agree with and support these concerns particularly those submitted by the Markle Residents Association.

PLANNING ASSESSMENT

Scottish Planning Policy (Revised December 2020) states that the Planning System should, 'safeguard workable mineral resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors; minimise the impacts of extraction on local communities, the environment and the built and natural

heritage; and secure the sustainable restoration of sites to beneficial after use after working has ceased’.

PROP MIN4 of the East Lothian Local Development Plan (ELLDP) 2018 states that Markle Mains Quarry is safeguarded for the continued extraction of hard rock.

Policy MIN 5 of the ELLDP 2018 states that ‘Proposals for the winning and working of minerals including hard rock, sand and gravel and limestone will not normally be permitted except (a) where related to existing workings or in exceptional cases, where resources of a particular type or quality are unavailable from an alternative source within a reasonable distance, and (b) where they are proven to be acceptable having regard to Policy MIN8 and other relevant development plan policies’.

Policy MIN8 states Proposals for surface mineral extraction or for the extraction of onshore oil or gas or coal bed methane will only be permitted where there will be no significant adverse impact on the environment or the local community.

Policy MIN9 states that proposals for mineral extraction must be supported by detailed information on the expected environmental impacts of the proposals.

Planning permission 98/00054/P granted planning permission for the winning and working of hard rock from the Markle Quarry area the subject of that application for a period of 26 years from the decision date, thus up to 14 October 2028. All subsequent planning permissions that were granted including planning permission 18/01403/PM had time conditions imposed on them to align their life spans with the time period approved by planning permission 98/00054/P.

Therefore condition 1 of planning permission 18/01403/PM limits the time period for the quarrying at Markle Mains quarry until October 14th 2028.

The applicant has stated that because the rate of extraction of stone from Markle Quarry has been less than planned back in 1998 that they now seek to vary condition 1 to allow for an additional 14 years to work the quarry beyond the original 26 year time limit imposed by planning permission 98/00054/P. This would extend the life of the quarry until 14th October 2042. It is not proposed to extend the area or of land to be quarried or the depth at which rock would be won within the quarry.

Through the grant of planning permission Ref: 18/01403/PM the Planning Committee approved the principal of the ongoing extraction of hard rock from Markle Mains quarry which has been in operation, albeit intermittently, at this site since the grant of planning permission Ref:468/78 in 1978. Therefore the principle of this quarry in this location has already been long established. In reaching their decision on planning permission 18/01403/PM for the extension to Markle Mains quarry the Planning Committee were satisfied that the continued use of the extended quarry site for the winning and working of hard rock was acceptable up until 14th October 2028.

In extending the life of the quarry beyond 14th October 2028 for a further 14 years, would ensure the continued supply of hard rock from it to meet the needs of the construction, energy and other sectors who require that hard rock beyond 2028. The extension in the life span of this existing hard rock quarry would also negate the need to search for alternative or additional areas for hard rock extraction sites within East Lothian and therefore would safeguard other areas of undisturbed countryside of East Lothian. The variation of condition 1 of planning permission 18/01403/PM would not therefore conflict with Policies Min 4 and Min 5 of the adopted East Lothian Local Development Plan 2018 or with Scottish Planning Policy; Revised December 2020.

This application is for a variation of a condition attached to an existing planning permission to extend the time period that the applicant has to work the consented quarry. Therefore the application, if granted, would not allow for the increase in the area of land to be quarried or the levels to which the quarry shall be worked. Therefore there would be no intensification of this quarry use that would generate any additional vehicular movements, vibration, blasting, noise, fumes and dust over and above those already permitted.

The Council's Environmental Protection Manager has confirmed that there are a number of conditions attached to the grant of planning permission 18/01403/PM that control the generation of noise, dust and vibration. Those existing conditions are sufficient to ensure that the quarry could continue to be operated without significant harm to the residential amenity of neighbouring residential properties. Therefore as all relevant planning conditions of planning permission 18/01403/PM would again be imposed on this planning permission if it were to be granted the Council's Environmental Protection Manager raises no objection to this application. Accordingly, if this planning application were to be granted the applicant would still be required to fully comply with all relevant conditions relating to noise, dust and vibration. Pending compliance with these conditions, the extension of the life of the quarry until 14th October 2042 would be acceptable and would not detrimentally impact on the amenity of surrounding properties by way of noise, dust and vibration.

Condition 32 of extant permission 98/0054/P required a 10 metres tree and shrub planting around the site to be maintained for the lifetime of the site. The soil bunds on site have not been planted up and are not in the same position as those agreed in relation to permission 98/00045/P. However, condition 26 of planning permission 20/01403/PM requires planting on the bunds as they have now been formed, around the quarry site and their ongoing maintenance. In the determination of planning permission 20/01403/PM the Council's Landscape Policy Officer was satisfied that this planting would mitigate the visual impact of the proposal and increase the biodiversity value of the site, particularly by providing links between existing areas of woodland. Condition 26 will again be imposed on this application if it were to be approved and the planting required through that condition will mitigate the visual impact of the extension areas and the existing quarry.

The Council's Road Services have confirmed that there are a number of planning conditions attached to planning permission 18/01403/PM that relate to vehicular movements to and from the quarry. As those conditions would again be imposed on this planning permission if it were to be granted the Council's Road Services raise no objection to the variation of condition 1 of planning consent 18/01403/PM to allow the operation of the quarry until the 14th October 2042. They are satisfied that there would be no intensification of use and that traffic generation from the site would remain as approved through planning permission 18/01403/PM.

Given the proximity of the quarry to the ancient woodland to the south, Nature Scot has been consulted on the application. They do not raise an objection to the proposed variation of condition 1 of planning consent 18/01403/PM to allow the operation of the quarry until the 14th October 2042. Therefore the proposal would not conflict with Policies MIN8 and MIN9 of the adopted East Lothian Local Development Plan or with Scottish Planning Policy: Revised December 2020.

The grant of planning permission 18/01403/PM was made subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 and 28 planning conditions.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the

Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation".

Therefore, planning permission should again be granted subject to the prior conclusion of a Section 75 legal agreement designed to secure the restoration of the quarry site once works have ceased and also subject to the varied condition 1 and also the other 27 conditions imposed on planning permission 18/01403/PM which all should continue to apply. Subject to the conclusion of the S75 legal agreement and the 27 planning conditions the extension in the life of the quarry would not conflict with Policies DC1, MIN4, MIN5, MIN8, MIN9, MIN10, NH13 and T2 of the adopted East Lothian Local Development Plan 2018, and PAN 64 Reclamation of Surface Mineral Workings and Scottish Planning Policy: Revised 2020.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
 - (i) a bond to secure the cost of all elements necessary to complete the site restoration and aftercare obligations
 - (ii) The bond to be maintained until the date of completion of all restoration and aftercare obligations.
 - (iii) The value of the financial guarantee shall be based on the costs required to cover the restoration of the quarry in the event that the Planning Authority has to request the bond and engage a contractor to fulfil the restoration and aftercare obligation proposed by the applicant.
 - (iv) The value of the financial guarantee shall be subject to a three yearly review carried out by a suitably qualified independent professional valuer and adjusted to take account of any variation in the cost of compliance with the then outstanding restoration and aftercare obligations. The periodic review of the value of the financial guarantee shall be informed by the submission of a written valuation report by a suitably qualified independent professional valuer prior to the three year review period, which shall be submitted for the written approval of the Planning Authority, and thereafter the value of the bond will be adjusted to reflect any revisions. The cost of the written valuation reports shall be met by the applicant.
 - (v) The submission to the Council, determination and the submission for registration of the decision notice that seeks to include the planning application reference: 20/01431/PM in the definition of planning permission in the existing S75 agreement.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the restoration bond the development is contrary to Policy MIN10 of the East Lothian Local Development Plan and PAN 64 Reclamation of Surface Mineral Workings.

- 1 This planning permission is granted for a temporary period until 14 October 2042 after which time all winning and working of rock shall cease.

No later than 14 October 2043 all stored rock, buildings, plant and machinery, and hard surfaces shall have been removed from the land and the site restored in accordance with the restoration approved by condition 2 below.

Reason:

To ensure the working of the site is restricted to that period for which planning permission has been sought and to align with extant permissions for the adjoining quarry area, in the interests of good planning control and of the amenity of the area.

- 2 Within 3 months from the date of this planning permission a detailed scheme of restoration for the entire Markle Quarry site shall be submitted for the written approval to of the Planning Authority.

The restoration and after care scheme shall be consistent with the Reinstatement and Aftercare Management Plan for Winning and Working of Hard Rock as Extension to existing Quarry (November 2018) and the stamped approved Reinstatement Plan 9377D.

The restoration scheme shall include:

- a) Proposals for the regrading of the quarry faces and benches to make them safe,
- b) Details of the soiling, seeding and drainage of the lowest level of the quarry at the end of the working of the site
- c) Full details of the Surface Water Drainage System to be implemented as part of the restoration works
- d) Timescales for the works.
- e) Proposals for the future aftercare of the restored site.

Thereafter the restoration and after care scheme shall be implemented and the works carried out in full in accordance with the approved time scale of the restoration and aftercare scheme unless otherwise agreed by the Planning Authority.

Reason:

To ensure comprehensive and appropriate restoration of the site in the interests of the amenity of the area.

- 3 At least 6 months after the date of this planning permission and at 12 monthly intervals thereafter, the applicant shall submit a quarry progress plan to the planning authority covering the whole Markle Quarry site.

The quarry progress plan shall:

- a) Provide an up-to-date topographical survey of the site in an appropriate format and appropriate scale.
- b) Identify areas of the site that have been subject to mineral extraction in the previous 12 months and/or will be subject to mineral extraction in the forthcoming 12 months
- c) Identify areas of the site that have been subject to restoration in the previous 12 months and/or will be subject to restoration in the forthcoming 12 months.
- d) Identify areas where aftercare will have been completed, areas of the site that have been subject to aftercare and/or will be subject to aftercare in the forthcoming 12 months.
- e) Set out any necessary adjustment to the approved restoration plans to be approved under Condition 2 to take account site circumstances over the previous 12 months.

In addition to the regular submission of the quarry progress plans, a copy of the quarry progress plans shall be kept on site and made available for inspection by the planning authority during the approved working hours.

Reason: To enable monitor of progress and compliance by the planning authority, and to provide appropriate flexibility to ensure that ongoing extraction and site restoration works can take account of any changes in circumstances.

- 4 No blasting shall take place on site other than between the hours of:
- 0900 hours and 1600 hours Monday to Friday and
- 0900 and 1200 hours on Saturdays.

There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

The above condition shall not apply in cases of emergency when it is necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing within 24 hours of the nature and circumstances of any such emergency event.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 5 Unless otherwise approved in advance and in writing by the Planning Authority, all quarrying and working operations within the site, including screening and transportation of materials, shall only take place between the hours of:
- 0700 and 1900 hours Monday to Friday and
- 0700 and 1630 hours on Saturdays.

No lorries or other heavy goods vehicles shall use the quarry access road except during these hours. At all other times, including Sundays, Public Holidays and National holidays, working shall be limited to the servicing, testing and maintenance of plant, works of an emergency nature and the carrying out of dust suppression.

Reason:

To ensure the site operations cause minimum disturbance to the environment and amenity of the area.

- 6 No materials shall be imported onto the site for any purpose without the prior, written approval of the Planning Authority.

Reason:

To limit vehicle movements and to prevent an intensification of operations within the site in the interests of the environment and amenity of the area.

- 7 The quarry access road from its junction with the Beanston Mains Road to the processing/plant area shall be retained in use and maintained to the satisfaction of the Planning Authority throughout the lifetime of the operational site.

Reason:

To ensure that the site is served by an acceptable standard of access road and in the interests of safeguarding the environment and amenity of the area.

- 8 Within 1 month from the date of granting of this planning permission the junction of the quarry access road with the Beanston Mains road shall have 'give way' road markings added to it in accordance with details to be submitted to and approved by the Planning Authority.

The give way road markings shall thereafter be retained for the lifetime of the operational quarry.

Reason:

To ensure the give way system on the private road is clearly marked in the interests of road safety.

- 9 A wheel washing facility on the quarry site shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud on its wheels in such a quantity that causes a nuisance or hazard on the roads in the locality.

Reason:

To prevent mud and other material being transferred onto the road network in the interests of road safety.

- 10 No lorries exiting onto Beanston Mains Road from the quarry access road shall exit in a northerly direction for the duration of the operations of the quarry, unless otherwise approved in writing by the Planning Authority.

Within 3 months of this planning decision, details of a sign instructing that all lorries leaving the junction must do so by turning left (in a southerly direction) shall be submitted to and approved in writing by the Planning Authority. Thereafter, the sign shall be installed as approved and maintained in place at the junction of the quarry access road with Beanston Mains Road

Reason:

To ensure that lorries from the quarry follow the proposed access route to the A199 in the interests of road safety.

- 11 All road haulage vehicles carrying aggregate materials under 75 mm shall be fully covered before leaving the quarry processing and plant area.

Reason:

To prevent nuisance from dust and small piece of aggregate entering the road network in the interests of the amenity of the area and road safety.

- 12 All vehicles moving or carrying stone within the quarry and processing and plant area within the site shall be provided with fan deflectors and with their exhausts directed upwards.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 13 All stone dumps shall be designed in such a manner as to be capable of being sprayed as required to prevent dust lift.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 14 No drilling rigs shall be operated within the site unless they have been fitted with suitable dust suppression or collection equipment, which shall be regularly monitored to ensure its effective operation in a manner to be agreed in advance with the Planning Authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 15 Within 28 days of the date of the granting of this planning permission, details of a scheme for the control and mitigation of dust and including the monitoring of dust from the quarry site, shall be submitted to and approved in writing by the Planning Authority.

The scheme shall incorporate the controls advocated in table 3 of Planning Advice Note 50 "Controlling the Environmental Effects of Surface Mineral Workings" Annex B "The Control of Dust at Surface Mineral Workings" and table 7.4.1 'Summary of Dust Control Measures' in the 'Planning Application and Supporting Statement' for Markle Mains Operational Rock Quarry, Haddington by AMS Associates Limited, November 2018.

Thereafter, the quarry operator shall implement the scheme of dust control, mitigation, monitoring as approved.

Reason:

To minimise the impact of the quarry operations on residential properties and on the local environment.

- 16 In the event of the quarry operator receiving a complaint concerning dust emission from the site the operator shall notify the Planning Authority within 24 hours of receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation, the details to be agreed in consultation with the Planning Authority, and initiate any necessary remedial measures within the site agreed with the Planning Authority.

Reason:

To minimise the impact of dust from the quarry operations on nearby residential properties and on the local environment.

- 17 All dust suppression plant and equipment shall be maintained in good working order at all times. If the dust suppression equipment is not available for us due to breakdown, vandalism, lack of water or any other reasons then the site operator shall to stop any works that are likely at that time to cause dust lift and also take immediate action to bring in suppression equipment so that dust suppression measures can be reintroduced without delay.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment.

- 18 Audible vehicle reversing alarms shall not be used on vehicles on site, unless otherwise agreed in writing with the Planning Authority.

- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 19 Noise levels emanating from the quarry site shall not exceed 50 dBLAeq1hr when measured at any neighbouring noise sensitive property.
- Reason:
To minimise the impact of quarry operations on nearby residential properties and on the local environment.
- 20 Within 28 days of the date of this planning permission, a scheme of noise monitoring shall be submitted to and approved in writing by, the Planning Authority.
- The monitoring programme shall be carried out by methods and at positions agreed with the Planning Authority. Details of the monitoring equipment and programme shall include all parameters necessary to demonstrate compliance with Condition 19.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 21 In the event of the quarry operator receiving a complaint concerning noise from the site, the operator shall notify the Planning Authority within 24 hours of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 22 Blasting shall be undertaken such that all blasts over a 2 month period are at or below a measured Peak Particle Velocity (PPV) level of 6 mms-1, with 95% of all blasts at or below a measured PPV level of 2.5 mms-1. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 23 Within 28 days of the date of this permission, details of the methods to be employed to minimise air over pressure from blasting operations shall be submitted to and approved in writing by the Planning Authority.
- All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 24 In the event of the quarry operator receiving a complaint concerning ground vibration from the site the operator shall notify the Planning Authority within 24 hours of the receipt of the complaint and in such cases; and in cases where the complaint is received directly by the Planning Authority and brought to the attention of the quarry operator, the quarry operator shall immediately undertake an investigation in consultation with the Planning Authority and initiate any necessary remedial measures within the site agreed with the Planning Authority.
- Reason:
To minimise the impact of the quarry operations on nearby residential properties and on the local environment.
- 25 Within a period of no later than 28 days of the date of this planning permission details of a ground vibration analysis and monitoring programme and a timetable for reporting in writing the results of the monitoring to the Planning Authority shall be submitted to and approved in writing by the Planning

Authority.

The programme shall include details of the location of monitoring points and equipment to be used and parameters necessary to demonstrate compliance with Condition 22.

All blasting operations shall thereafter take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the planning authority.

Reason:

To minimise the impact of the quarry operations on nearby residential properties and on the local environment and to demonstrate compliance.

- 26 All planting as detailed and approved in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03) docketed to this permission, shall be carried out in the first planting season following the date of this decision notice.

Thereafter, all the planting, bunding and landscaping shall be maintained as detailed in the Planting Plan drawing number: 301 P09 and the Landscape Specification (revision P03), unless otherwise agreed in writing by the Planning authority.

Reason:

To ensure that the agreed landscaping and planting is implemented as agreed in the interests of visual and environmental amenity.

- 27 Fuel oils, and any other similar substances required for the purposes of site operations, proposed to be stored on site shall be contained in bunded or double skinned tanks. Pumps, valves and transfer hoses and similar equipment (when not in use) shall be located within the bunded area. Tanks should be locked when unattended.

Reason:

To prevent water pollution and in the interests of safeguarding the environment and amenity of the area.

- 28 All top soil and sub soil stripped from the site shall be stored for subsequent use in the restoration of the site in separate stock piles, unless otherwise agreed in writing with the Planning Authority. The location and form of which shall be agreed in advance by the Planning Authority and shall not exceed 6 metres in height.

Reason:

To safeguard the availability of strip soils for use in the restoration of the site.